



MEMORANDUM

DATE: April 11, 2008

TO: ALL INTERESTED PARTIES

FROM: STATE PERSONNEL BOARD – Executive Office

SUBJECT: Notice and Agenda for the April 22, 2008, Meeting of the State Personnel Board.

PLEASE TAKE NOTICE that on April 22, 2008, at the offices of the California State Personnel Board, 801 Capitol Mall, Sacramento, CA 95814, the State Personnel Board will hold its regularly scheduled meeting.

The attached Agenda provides a brief description of each item to be considered and lists the date and approximate time for discussion of the item. Also noted is whether the item will be considered in closed or public session. Closed sessions are closed to members of the public. All discussions held in public sessions are open to those interested in attending. Interested members of the public who wish to address the Board on a public session item may request the opportunity to do so.

Should you wish to obtain a copy of any materials related to items considered in the public sessions, please visit the SPB website at www.spb.ca.gov or contact staff in the Secretariat's Office via mail at State Personnel Board, 801 Capitol Mall, MS 52, Sacramento, California 95814 or by calling (916) 653-1028.

Should you have any questions regarding this Notice and Agenda, please contact staff in the Secretariat's Office at the address or telephone number above.

Secretariat's Office

Attachment

STATE PERSONNEL BOARD AGENDA



APRIL 22, 2008

SACRAMENTO, CA



CALIFORNIA STATE PERSONNEL BOARD

801 Capitol Mall • Sacramento, California 95814 • www.spb.ca.gov

ARNOLD SCHWARZENEGGER, Governor



BOARD MEETING – APRIL 22, 2008 ¹

**9:00 a.m. – 11:30 a.m.
(Or upon completion of business)**

ALL TIMES ARE APPROXIMATE

Public and Closed Session Location

**801 Capitol Mall, Room 150
Sacramento, CA 95814**

¹ Sign Language Interpreter will be provided for Board Meeting upon request – contact Secretariat at (916) 653-1028.

PUBLIC SESSION OF THE STATE PERSONNEL BOARD

9:00 a.m.

- 1. ROLL CALL**
- 2. REPORT OF THE EXECUTIVE OFFICER**
- Suzanne M. Ambrose
- 3. REPORT OF THE CHIEF COUNSEL**
- Elise S. Rose
- 4. REPORT ON LEGISLATION**
- Elise S. Rose
- 5. NEW BUSINESS**
Items may be raised by Board Members for scheduling and discussion for future meetings.

9:15 a.m.

- 6. HEARING – CA DEPARTMENT OF TRANSPORTATION’S CAREER EXECUTIVE ASSIGNMENT (CEA) PROPOSALS UNDER CONSIDERATION (Multiple Districts)**
 - CA State Personnel Board Staff
 - CA Department of Transportation Representative
 - Professional Engineers in California Government (PECG)

Staff from the Professional Engineers in California Government (PECG) have requested a hearing to discuss multiple CEA proposals that were listed on the March 25, 2008, State Personnel Board Agenda. PECG requests to address the five-member Board and interested parties.

9:45 a.m.

- 7. HEARING – CA STATE PERSONNEL BOARD AND DEPARTMENT OF BOATING AND WATERWAYS**
 - CA State Personnel Board Staff
 - CA Department of Boating and Waterways

Proposed revision to Aquatic Pest Control Technician Series Specification to update language and revise Alternate Range Criteria 363.

10:15 a.m.

8. INFORMATIONAL BRIEFING – PSYCHIATRIST SPECIFICATIONS

Revisions to the Minimum Qualifications for the Staff Psychiatrist, Senior Psychiatrist, Senior Psychiatrist (Specialist), Senior Psychiatrist (Supervisor), Chief Psychiatrist, Correctional and Rehabilitative Services (Safety), Classifications were adopted by the Board on February 22, 2008. The proposal was adopted with the understanding that the department and union would report back to the board within 60 days to advise on whether or not further job specification revisions should be proposed.

- CA State Personnel Board
- CA Department of Corrections and Rehabilitation
- Union of American Physicians and Dentist (UAPD)

10:45 a.m.

CLOSED SESSION OF THE STATE PERSONNEL BOARD

9. EMPLOYEE APPOINTMENTS, DISCIPLINARY MATTERS, AND OTHER APPEALS

Deliberations to consider matters submitted at prior hearing.
[Government Code Sections 11126(c)(3), 18653(3).]

10. DELIBERATION ON NON-EVIDENTIARY CASES AND ADVERSE ACTIONS, DISCRIMINATION COMPLAINTS, AND OTHER PROPOSED DECISIONS SUBMITTED BY ADMINISTRATIVE LAW JUDGES

Deliberations on proposed, rejected, remanded, and submitted decisions, petitions for rehearing, and other matters related to cases heard by Administrative Law Judges of the State Personnel Board or by the Board itself.

[Government Code Sections 11126(c)(3), 18653.]

11. PENDING LITIGATION

Conference with legal counsel to confer with and receive advice regarding pending litigation when discussion in open session would be prejudicial.
[Government Code sections 11126(e)(1), 18653.]

California Highway Patrol, et al. v. State Personnel Board, et al.
Sacramento Superior Court
Case No. 34-2008-00002G14-CU-WM-GDS

California Department Corrections and Rehabilitation, et al. v. State Personnel Board, et al.
Sacramento Superior Court
Case No. 34-2007-00883875-CU-WM-GDS

Patrick McCollum v. State of California
United States District Court, Northern District of California
Case No. C 04-03339 CRB

Plata, et al. v. Schwarzenegger, et al.
Case No. C01-1351 TEH

12. **RECOMMENDATIONS TO THE LEGISLATURE**
Deliberations on recommendations to the Legislature.
[Government Code section 18653.]
13. **RECOMMENDATIONS TO THE GOVERNOR**
Deliberations on recommendations to the Governor.
[Government Code section 18653.]

11:15 a.m.

PUBLIC SESSION OF THE STATE PERSONNEL BOARD

14. **DISCUSSION OF UPCOMING BOARD MEETING SCHEDULED FOR MAY 12-13, 2008, IN SACRAMENTO, CALIFORNIA.**

BOARD ACTIONS:

15. **ADOPTION OF THE STATE PERSONNEL BOARD SUMMARY MINUTES OF THE MARCH 25, 2008, BOARD MEETING.**
16. **EVIDENTIARY CASES**

A. BOARD CASES SUBMITTED

These items have been taken under submission by the State Personnel Board at a prior meeting.

- (1) **CASE NO. 05-3327A**
Appeal from dismissal
Classification: Medical Technical Assistant
Department: CA Department of Corrections and Rehabilitation

Proposed decision rejected July 10, 2007.
Transcript prepared.
Oral argument set for February 4-5, 2008, Sacramento.
Oral argument continued.
Oral argument heard March 4, 2008, Los Angeles.
Case ready for decision by FULL Board.

B. ORAL ARGUMENTS

These cases will be argued at this meeting or will be considered by the Board in closed session based on written arguments submitted by the parties.

NONE

C. CHIEF COUNSEL RESOLUTIONS

NONE

COURT REMANDS

These cases have been remanded to the Board by the court for further Board action.

NONE

STIPULATIONS

These stipulations have been submitted to the Board for Board approval, pursuant to Government Code, section 18681.

NONE

D. ADMINISTRATIVE LAW JUDGE'S (ALJ) PROPOSED DECISIONS

The Board Administrative Law Judges conduct evidentiary hearings in appeals that include, but are not limited to, adverse actions, medical terminations, demotions, discrimination, reasonable accommodations, and whistleblower complaints.

PROPOSED DECISIONS

These are ALJ proposed decisions submitted to the Board for the first time.

(1) CASE NO. 07-3138

Appeal from five percent reduction in salary for six months

Classification: Chief Medical Officer

Department: CA Department of Corrections and Rehabilitation

- (2) **CASE NO. 04-2622**
Appeal from dismissal
Classification: Officer
Department: CA Highway Patrol
- (3) **CASE NO. 07-1695**
Appeal from five percent reduction in salary for three months
Classification: Catholic Chaplin
Department: CA Department of Developmental Services
- (4) **CASE NO. 07-2964**
Appeal from suspension for 45 calendar days
Classification: Psychiatric Technician (Safety)
Department: CA Department of Mental Health
- (5) **CASE NO. 06-4333**
Appeal from 10 percent reduction in salary for 12 months
Classification: Maintenance Mechanic
Department: CA Department of Corrections and Rehabilitation
- (6) **CASE NOS. 05-2194 & 06-0396**
Appeal from suspension of ten working days and suspension of twenty working days
Classification: Staff Chemist
Department: CA Department of Toxic Substances Control
- (7) **CASE NO. 07-4437**
Appeal from involuntary transfer
Classification: Senior Transportation Electrical Engineer (Supervisor)
Department: CA Department of Transportation
- (8) **CASE NO. 07-2179**
Appeal from rejection during probation
Classification: Psychiatric Technician (Safety)
Department: CA Department of Corrections and Rehabilitation
- (9) **CASE NO. 07-3177**
Appeal from Letter of Reprimand
Classification: Correctional Officer
Department: CA Department of Corrections and Rehabilitation

- (10) **CASE NO. 07-1198**
Appeal from demotion
Classification: Business Taxes Compliance Supervisor II
Department: CA State Board of Equalization
- (11) **CASE NO. 07-2884**
Appeal from a 12 work day suspension
Classification: Parole Agent III
Department: CA Department of Corrections and Rehabilitation
- (12) **CASE NO. 07-1081**
Appeal from dismissal
Classification: Correctional Officer
Department: CA Department of Corrections and Rehabilitation
- (13) **CASE NO. 06-4217**
Appeal from dismissal
Classification: Correctional Officer
Department: CA Department of Corrections and Rehabilitation
- (14) **CASE NO. 07-2966E**
Appeal from denial of discrimination complaint
Classification: Environmental Planner
Department: CA Department of Transportation
- (15) **CASE NO. 07-2295**
Appeal from suspension for 45 calendar days
Classification: Psychiatric Technician (Safety)
Department: CA Department of Mental Health

PROPOSED DECISIONS TAKEN UNDER SUBMISSION AT A PRIOR MEETING

NONE

PROPOSED DECISIONS AFTER BOARD REMAND

NONE

PROPOSED DECISIONS AFTER SPB ARBITRATION

NONE

E. PETITIONS FOR REHEARING

ALJ PROPOSED DECISIONS ADOPTED BY THE BOARD

The Board will vote to grant or deny a petition for rehearing filed by one or both parties, regarding a case already decided by the Board.

- (1) CASE NOS. 98-4118P & 99-0772P**
Appeal from dismissal
Classification: Institution Artist
Department: CA Department of Corrections & Rehabilitation
- (2) CASE NO. 06-2737P**
Appeal from dismissal
Classification: Correctional Sergeant
Department: CA Department of Corrections & Rehabilitation
- (3) CASE NO. 06-2010AP**
Appeal from constructive medical termination
Classification: Administrative Support Coordinator II
Department: CA State University, Los Angeles
- (4) CASE NO. 06-0060P**
Appeal from dismissal
Classification: Medical Technical Assistant
Department: CA Department of Corrections and Rehabilitation
- (5) CASE NO. 07-0580P**
Appeal from dismissal
Classification: Correctional Officer
Department: CA Department of Corrections and Rehabilitation
- (6) CASE NO. 07-1912P**
Appeal from dismissal
Classification: Physician and Surgeon
Department: CA Department of Corrections and Rehabilitation

WHISTLEBLOWER NOTICE OF FINDINGS

The Board will vote to grant or deny a petition for rehearing filed by one or both parties, regarding a case previously decided pursuant to Government Code, section 19683 et seq. and Title 2, California Code of Regulations, section 56 et seq.

NONE

F. PENDING BOARD REVIEW

These cases are pending preparation of transcripts, briefs, or the setting of oral argument before the Board.

(1) CASE NO. 06-3747A

Appeal from dismissal

Classification: Parole Agent I

Department: CA Department of Corrections and Rehabilitation

Proposed decision rejected January 8, 2008.

Transcript prepared.

Oral argument set for May 12-13, 2008, Sacramento.

(2) CASE NO. 07-2189A

Appeal from non-punitive termination

Classification: Vocational Instructor (Welding)

Department: CA Department of Corrections and Rehabilitation

Proposed decision rejected March 4, 2008.

Pending transcript.

17. RESOLUTION EXTENDING TIME PURSUANT TO GOVERNMENT CODE SECTION 18671.1

NOTICE OF GOVERNMENT CODE SECTION 18671.1 RESOLUTION

Since Government Code section 18671.1 requires that cases pending before State Personnel Board Administrative Law Judges (ALJ's) be completed within six months or no later than 90 days after submission of a case, whichever is first, absent the publication of substantial reasons for needing an additional 45 days, the Board hereby publishes its substantial reasons for the need for the 45-day extension for some of the cases now pending before it for decision.

An additional 45 days may be required in cases that require multiple days of hearings, that have been delayed by unusual circumstances, or that involve

any delay generated by either party (including, but not limited to, submission of written briefs, requests for settlement conferences, continuances, discovery disputes, pre-hearing motions). In such cases, six months may be inadequate for the ALJ to hear the entire case, prepare a proposed decision containing the detailed factual and legal analysis required by law, and for the State Personnel Board to review the decision and adopt, modify or reject the proposed decision within the time limitations of the statute.

Therefore, at its next meeting, the Board will issue the attached resolution extending the time limitation by 45 days for all cases that meet the above criteria, and that have been before the Board for less than six months as of the date of the Board meeting.

GOVERNMENT CODE SECTION 18671.1 RESOLUTION

WHEREAS, Section 18671.1 provides that, absent waiver by the appellant, the time period in which the Board must render its decision on a petition pending before it shall not exceed six months from the date the petition was filed or 90 days from the date of submission; and

WHEREAS, Section 18671.1 also provides for an extension of the time limitations by 45 additional days if the Board publishes substantial reasons for the need for the extension in its calendar prior to the conclusion of the six-month period; and

WHEREAS, the Agenda for the instant Board meeting included an item titled "Notice of Government Code section 18671.1 Resolution" which sets forth substantial reasons for utilizing that 45-day extension to extend the time to decide particular cases pending before the Board;

WHEREAS, there are currently pending before the Board cases that have required multiple days of hearing and/or that have been delayed by unusual circumstances or by acts or omissions of the parties themselves;

NOW, THEREFORE, BE IT RESOLVED AND ORDERED that the time limitations set forth in Government Code section 18671.1 are hereby extended an additional 45 days for all cases that have required multiple days of hearing or that have been delayed by acts or omissions of the parties or by unusual circumstances and that have been pending before the Board for less than six months as of the date this resolution is adopted.

18. NON-EVIDENTIARY CASES

A. WITHHOLD APPEALS

Cases heard by a Staff Hearing Officer, a managerial staff member of the State Personnel Board or investigated by Appeals Division staff. The Board will be presented recommendations by a Staff Hearing Officer or Appeals Division staff for final decision on each appeal.

WITHHOLD FROM CERTIFICATION
CASES HEARD BY A STAFF HEARING OFFICER

NONE

WITHHOLD FROM CERTIFICATION
CASES NOT HEARD BY A STAFF HEARING OFFICER

- (1) **CASE NO. 06-3743N**
Department: CA Department of Corrections and Rehabilitation
Classification: Correctional Officer
Issue: Suitability; past terminations and pending criminal prosecution.
- (2) **CASE NO. 06-4422N**
Department: CA Department of Corrections and Rehabilitation
Classification: Correctional Officer
Issue: Suitability; negative law enforcement contacts and failure to provide all pertinent information.
- (3) **CASE NO. 06-3563N**
Department: CA Department of Corrections and Rehabilitation
Classification: Correctional Officer
Issue: Suitability; termination within one year and negative employment history.
- (4) **CASE NO. 06-4009N**
Department: CA Highway Patrol
Classification: Cadet
Issue: Suitability; failure to disclose accidents, tickets, inappropriate behavior and petty theft.
- (5) **CASE NO. 06-4483N**
Department: CA Department of Corrections and Rehabilitation
Classification: Correctional Officer
Issue: Suitability; failure to disclose high school suspensions, negative employment issues, and a poor driving record.

- (6) CASE NO. 06-3922N**
Department: CA Department of Corrections and Rehabilitation
Classification: Correctional Officer
Issue: Suitability; negative law enforcement contacts and failure to provide accurate pertinent information.
- (7) CASE NO. 06-3286N**
Department: CA Department of Corrections and Rehabilitation
Classification: Correctional Officer
Issue: Suitability; omitting pertinent information and a negative driving record.
- (8) CASE NO. 06-3833N**
Department: CA Department of Corrections and Rehabilitation
Classification: Correctional Officer
Issue: Suitability; failure to provide honest and accurate information in his PHS.
- (9) CASE NO. 06-3520N**
Department: CA Department of Corrections and Rehabilitation
Classification: Youth Correctional Counselor
Issue: Suitability; negative law enforcement contacts, illegal drug use.

B. MEDICAL AND PSYCHOLOGICAL SCREENING APPEALS

Cases heard by a Staff Hearing Panel comprised of a managerial staff member of the State Personnel Board and a medical professional. The Board will be presented recommendations by a Hearing Panel on each appeal.

CASES HEARD BY A STAFF HEARING OFFICER

NONE

DISMISSED CASES

(1) CASE NO. 07-5483N

Classification: Correctional Officer

Department: CA Department of Corrections & Rehabilitation

**C. EXAMINATION APPEALS, MINIMUM QUALIFICATIONS, MERIT
ISSUE COMPLAINTS**

Cases heard by a Staff Hearing Officer, a managerial staff member of the State Personnel Board or investigated by Appeals Division staff. The Board will be presented recommendations by a Staff Hearing Officer or Appeals Division staff for final decision on each appeal.

NONE

**D. RULE 211 APPEALS, RULE 212 OUT OF CLASS APPEALS,
VOIDED APPOINTMENT APPEALS**

Cases heard by a Staff Hearing Officer, or a managerial staff member of the State Personnel Board. The Board will be presented recommendations by a Staff Hearing Officer for final decision on each appeal.

NONE

E. REQUEST TO FILE CHARGES CASES

Investigated by Appeals Division staff. The Board will be presented recommendations by Appeals Division staff for final decision on each request.

(1) CASE NO. 07-2111N

Department: A member of the public

Classification: N/A

Issue: The charging party requests to file charges for violations of various subsections of Government Code § 19572.

PETITIONS FOR REHEARING CASES

NONE

19. NON-HEARING AGENDA

The following proposals are made to the State Personnel Board by either the Board staff or Department of Personnel Administration staff. It is anticipated that the Board will act on these proposals without a hearing.

Anyone with concerns or opposition to any of these proposals should submit a written notice to the Executive Officer clearly stating the nature of the concern or opposition. Such notice should explain how the issue in dispute is a merit employment matter within the Board's scope of authority as set forth in the State Civil Service Act (Government Code section 18500 et seq.) and Article VII of the California Constitution. Matters within the Board's scope of authority include, but are not limited to, personnel selection, employee status, discrimination and affirmative action. Matters outside the Board's scope of authority include, but are not limited to, compensation, employee benefits, position allocation, and organization structure. Such notice must be received not later than close of business on the Wednesday before the Board meeting at which the proposal is scheduled. Such notice from an exclusive bargaining representative will not be entertained after this deadline, provided the representative has received advance notice of the classification proposal pursuant to the applicable memorandum of understanding. In investigating matters outlined above, the Executive Officer shall act as the Board's authorized representative and recommend that the Board either act on the proposals as submitted without a hearing or schedule the items for a hearing, including a staff recommendation on resolution of the merit issues in dispute.

A. BOARD ITEMS PRESENTED BY STATE PERSONNEL BOARD OR DEPARTMENT OF PERSONNEL ADMINISTRATION TO ESTABLISH, REVISE OR ABOLISH CLASSIFICATIONS, ALTERNATE RANGE CRITERIA, ETC.

(1) TAX COUNSEL, FRANCHISE TAX BOARD AND BOARD OF EQUALIZATION

Franchise Tax Board and the Board of Equalization propose revisions to the language under minimum qualifications allowing students who are eligible to take the California State Bar examination or are in their final year of law school be admitted to the examination.

B. ABOLISHMENT OF CLASSES THAT HAVE HAD NO INCUMBENTS FOR MORE THAN TWO YEARS. DEPARTMENTS THAT UTILIZE THE CLASS AS WELL AS THE APPROPRIATE UNION HAVE NO OBJECTION TO THE ABOLISHMENT OF THESE CLASSES.

THE DEPARTMENT OF PERSONNEL ADMINISTRATION AND STATE PERSONNEL BOARD propose to abolish the following unused classifications, which have been vacant for more than twenty-four months. Departments that utilize the class as well as the appropriate union have no objection to the abolishment of

these classes. When classes are proposed to be abolished which are part of a class series, and other classes within the series will continue to be used, the class specification is included in the board item.

| <u>Class Code</u> | <u>Title</u> |
|--|---------------------|
| • Publications Supervisor Division of Mines and Geology | 5607 |
| • Senior Mining Engineer | 3774 |
| • State Geologist C.E.A. | 3690 |
| • Assistant Chief Division of Industrial Accidents C.E.A. | 5842 |
| • State Intergroup Relations Coordinator | 9490 |
| • Senior Boating Administrator | 1104 |
| • Public Employment Relations Representative | 9526 |
| • Assistant Chief, Conservation and Liquidation Division, Department of Insurance | 4428 |
| • Chief, Technical Assistance and Analysis Division, Fair Political Practices Commission | 5707 |
| • Maritime Vocational Instructor I | 6976 |
| • Maritime Vocational Instructor II | 6978 |
| • Maritime Vocational Instructor III | 6979 |
| • Printing Trades Specialist I (Finishing) | 1489 |
| • Printing Trades Specialist II (General) | 1499 |
| • Printing Trades Specialist IV | 1522 |

20. STAFF AGENDA ITEMS FOR BOARD INFORMATION

NONE

21. CAREER EXECUTIVE ASSIGNMENT (CEA) CATEGORY ACTIVITY

This section of the Agenda serves to inform interested individuals and departments of proposed and approved CEA position actions.

The first section lists position actions that have been proposed and are currently under consideration.

Any parties having concerns with the merits of a proposed CEA position action should submit their concerns in writing to the Classification and Compensation Division of the Department of Personnel Administration, the Merit Operations Division of the State Personnel Board, and the department proposing the action.

To assure adequate time to consider objections to a CEA position action, issues should be presented immediately upon receipt of the State Personnel Board Agenda in which the proposed position action is noticed as being under consideration, and generally no later than a week to ten days after its publication.

In cases where a merit issue has been raised regarding a proposed CEA position action and the dispute cannot be resolved, a hearing before the five-member Board may be scheduled. If no merit issues are raised regarding a proposed CEA position action, and the State Personnel Board approves it, the action becomes effective without further action by the Board.

The second section of this portion of the Agenda reports those position actions that have been approved. They are effective as of the date they were approved by the Executive Officer of the State Personnel Board.

A. REQUESTS TO ESTABLISH NEW OR REVISE EXISTING CEA POSITIONS CURRENTLY UNDER CONSIDERATION

(1) CHIEF, POLICY MANAGEMENT BRANCH

The CA Office of HIPPA Implementation (CalOHI) proposes the allocation of one position to the CEA Category entitled Chief, Policy Management Branch, CalOHI to provide oversight and policy direction to ensure the Health Insurance Portability and Accountability Act (HIPPA) policy is implemented uniformly statewide.

(2) CHIEF INFORMATION OFFICER

The CA Department of Motor Vehicles proposes the redefinition of one CEA position entitled Chief Information Officer, to provide the overall vision and leadership by developing and managing the DMV's overall information technology, information security and privacy protection programs, governance process, and policy framework to ensure that the DMV's business vision, mission and strategic plans are successful.

(3) CHIEF, ENTERPRISE IT PLANNING, POLICIES & OVERSIGHT OFFICE, OFFICE OF CIO

The CA Department of Motor Vehicles proposes the allocation of one position to the CEA Category, entitled Chief, Enterprise IT Planning, Policies & Oversight Office, Office of CIO to direct the department's IT strategic planning and control functions in keeping with the direction

of the Directorate, the CIO and the provisions of the California IT Strategic Plan, along with the department's Strategic Business Plan and Strategic IT Plan.

(4) CHIEF, INFORMATION SYSTEMS DIVISION

The CA Department of Motor Vehicles proposes to reestablish an inactive CEA position, titled Chief, Information Systems Division to establish operational IT policies and standards and will be responsible for the maintenance of all the IT systems, IT services and day-to-day operation of the Information Systems Division.

(5) ASSISTANT SECRETARY FOR EDUCATION AND QUALITY PROGRAMS, CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY

The CA Air Resources Board proposes to redirect the Assistant Secretary for Quality Programs, CEA to Assistant Secretary for Education and Quality Programs, CEA. The position will be the principal advisor on policy, program and management matters regarding education about the environment for California's students. The Assistant Secretary's duties will be expanded to include coordinating and overseeing State programs and activities related to the development, approval, and implementation of public educational curriculum.

(6) CHIEF, OFFICE OF STRATEGIC PLANNING AND POLICY

The CA Department of Mental Health proposes to redirect a CEA position from the Chief, County Finance Program Supervisor to Chief, Office of Strategic Planning and Planning and Policy. The proposed position is responsible for the development, implementation and measurement of the department's strategic plan; the position will direct and oversee the department's efforts to re-engineer its business processes; the position will set statewide policy on issues related to strategic planning.

(7) ASSISTANT GENERAL MANAGER, ADMINISTRATION DIVISION

The CA Prison Industry Authority (CALPIA) proposes to redirect a CEA position from the Chief Assistant General Manager, CEA to Assistant General Manager, Administration, CEA. The proposed position is responsible for directing all administrative and financial functions of the

Prison Industry Authority, functions as a key policy advisor to the General Manager on all financial and administrative matters and serves on CALPIA's Executive Staff.

(8) ASSISTANT GENERAL MANAGER, MARKETING DIVISION

The CA Prison Industry Authority (CALPIA) proposes to re-title a CEA position from Assistant General Manager, CEA the Assistant General Manager, Marketing. The proposed position is responsible for the full range of marketing strategies and activities as well as serving as a member of the CALPIA's Executive Staff.

(9) DEPUTY DIRECTOR, MAINTENANCE SERVICES BRANCH, FACILITIES MANAGEMENT

The CA Department of Corrections and Rehabilitation proposes to allocate the above position to the CEA category. The position will be the management expert responsible for providing policy and procedural advice to the Director, Facilities Management; developing and implementing new policy and procedures; advising management on proposed legislation that may impact maintenance services. The Maintenance Services Deputy Director is responsible for building maintenance budgeting, planning and allocation of funds for replacements and repairs by directing the development of a five-year deferred maintenance plan.

(10) DEPUTY DIRECTOR, ENGINEERING SERVICES, FACILITIES MANAGEMENT

The CA Department of Corrections and Rehabilitation proposes to allocate the above position to the CEA category. The position will be the management expert responsible for providing policy and procedural advice to the Director, Facilities Management; developing and implementing new policy and procedures; advising management on proposed legislation that may impact engineering services.

(11) CHIEF, OFFICE OF HUMAN CAPITAL AND WORKPLACE INNOVATION

The CA Department of Toxic Substances Control proposes to allocate the above position to the CEA category. The position is responsible for overseeing the workforce planning, recruitment and examinations, strategic planning,

internal communications, performance management, leadership development, training, staff evaluation, and field health and safety functions of the Department. The Chief is part of the management team which is responsible for the development of policy for the department. The incumbent maintains daily contact with the director and executive management staff members to establish policy, develop organizational strategies, and resolve specific issues or programmatic concerns.

(12) ASSISTANT DEPUTY SECRETARY FOR HUMAN RESOURCES

The CA Department of Veterans Affairs proposes to allocate the above position to the CEA category. The position plans, organizes and directs the personnel, training and staff development, selection, classification and pay, employer/employee relations and health and safety functions. The position directly influences policy decisions and has broad responsibility for policy implementation across multiple programs, in multiple facilities throughout the State and agency wide.

(13) ASSISTANT DEPUTY SECRETARY FOR FINANCE

The CA Department of Veterans Affairs proposes to allocate the above position to the CEA category. The position plans, organizes and directs the financial management functions and directly influences policy decisions and has broad responsibility for policy implementation across multiple programs, in multiple facilities throughout the State, and agency wide.

(14) ASSISTANT DEPUTY SECRETARY, CAPITAL ASSETS AND FACILITIES MANAGEMENT

The CA Department of Veterans Affairs proposes to allocate the above position to the CEA category. The position plans, organizes and directs capital development and facilities management functions and directly influences policy decisions and has broad responsibility for policy implementation across multiple programs, in multiple facilities throughout the State, and agency-wide.

(15) ASSISTANT DEPUTY DIRECTOR, CONSOLIDATED CARE CENTERS

The CA Department of Corrections and Rehabilitation proposes to allocate the above position to the CEA category. The position has full management responsibility for developing and implementing statewide operating policies and activation standards and the overall strategy and policy direction for consolidating the mental health program for adult inmates. The Assistant Deputy Director provides policy direction and expert input to the entire Department, control agencies, and others in meeting legal mandates required under *Coleman* and state licensing laws.

(16) CHIEF OF BUDGETS

The CA Department of Forestry and Fire Protection's (CA FIRE) proposes to allocate the above position to the CEA category. The position manages sensitive and controversial programmatic and budgetary issues, influences internal and external policy makers regarding the development of new programs and the fiscal impact of new fees/revenue sources, advises control agencies on the implications of policy decision on the department and to the state, reports to the Director regarding budgetary actions taken by control agencies, and recommends appropriate actions.

(17) CHIEF, DIVISION OF PLANNING AND LOCAL ASSISTANCE

The CA Department of Water Resources proposes to re-establish the above position to the CEA category. The position is responsible for managing California's water resources planning efforts providing support at the local and regional level through technical and financial assistance, information collection and dissemination, resources evaluation, and development and implementation of the California Water Plan and Integrated Regional Water Management Plans.

(18) AGENCY INFORMATION OFFICER (AIO)

The CA Labor and Workforce Development Agency proposes to establish the above position to the CEA category. The position is responsible for overseeing the information technology functions and governance policy development within the Agency. The AIO is responsible for

leveraging and coordinating equipment, staffing, telecommunications and technology to maximize the use of technology and telecommunications resources throughout the Agency.

B. EXECUTIVE OFFICER DECISIONS REGARDING REQUESTS TO ESTABLISH NEW OR REVISE EXISTING CEA POSITIONS

(1) CHIEF INFORMATION OFFICER

The CA Department of Corrections and Rehabilitation, PLATA Personnel Service's request to allocate the above position was approved on March 12, 2008.

(2) CHIEF, INTERNAL AUDITS

The CA Department of Health Care Services' request to allocate the above position was approved on March 5, 2008.

(3) DIRECTOR OF COMMUNICATIONS

The CA Department of Corrections and Rehabilitation, Receiver's Office's request to allocate the above position was approved on March 17, 2008.

(4) PRESIDING ADMINISTRATIVE LAW JUDGE

The CA State Personnel Board's request to allocate the above position was approved on March 14, 2008.

22. WRITTEN STAFF REPORT FOR BOARD INFORMATION

NONE

23. PRESENTATION OF EMERGENCY ITEMS AS NECESSARY

NONE

24. BOARD ACTIONS ON SUBMITTED ITEMS

These items have been taken under submission by the State Personnel Board at a prior meeting and may be before the Board for a vote at this meeting.

SUBMITTED

- (1) **PERSONAL SERVICES CONTRACT NO. 04-03**
Appeal of the California State Employees Association from the Executive Officer's April 15, 2004, Approval of Master Contracts between the California Department of Corrections and Staffing Solutions, CliniStaff, Inc., Staff USA, Inc., CareerStaff Unlimited, MSI International, Inc., Access Medical Staffing & Service, Drug Consultants, Infinity Quality Services Corporation, Licensed Medical Staffing, Inc., Morgan Management Services, Inc., Asereth Medical Services, and PrideStaff dba Rx Relief.
(Hearing held on August 12, 2004.)
- (2) **CASE NO. 05-3327A**
Appeal from dismissal. Medical Technical Assistant. CA Department of Corrections and Rehabilitation.
(Oral argument held March 4, 2008.)
- (3) **CASE NO. 07-0850A.**
Appeal from non-punitive termination. Clinical Social Worker. CA Department of Corrections and Rehabilitation.
(Oral argument held April 7, 2008.)

A D J O U R N M E N T

11:30 a.m.

25. **VIEWING OF PBS DOCUMENTARY, "SOUL OF JUSTICE: THELTON HENDERSON'S AMERICAN JOURNEY."**



MEMORANDUM

DATE: April 22, 2008

TO: STATE PERSONNEL BOARD

FROM: MIKE STRAZZO, Merit Operations Division

SUBJECT: NON-HEARING AGENDA ITEMS FOR BOARD ACTION

- (1) **TAX COUNSEL, FRANCHISE TAX BOARD AND BOARD OF EQUALIZATION**
Franchise Tax Board and the Board of Equalization propose revisions to the language under minimum qualifications allowing students who are eligible to take the California State Bar examination or are in their final year of law school be admitted to the examination.

(2) **ABOLISHMENT OF CLASSES**

| <u>Class Code</u> | <u>Title</u> |
|--|--------------|
| • Publications Supervisor Division of Mines and Geology | 5607 |
| • Senior Mining Engineer | 3774 |
| • State Geologist C.E.A. | 3690 |
| • Assistant Chief Division of Industrial Accidents C.E.A. | 5842 |
| • State Intergroup Relations Coordinator | 9490 |
| • Senior Boating Administrator | 1104 |
| • Public Employment Relations Representative | 9526 |
| • Assistant Chief, Conservation and Liquidation Division, Department of Insurance | 4428 |
| • Chief, Technical Assistance and Analysis Division, Fair Political Practices Commission | 5707 |
| • Maritime Vocational Instructor I | 6976 |
| • Maritime Vocational Instructor II | 6978 |
| • Maritime Vocational Instructor III | 6979 |
| • Printing Trades Specialist I (Finishing) | 1489 |
| • Printing Trades Specialist II (General) | 1499 |
| • Printing Trades Specialist IV | 1522 |

TO: STATE PERSONNEL BOARD

FROM: Lisa York, Personnel Program Analyst
Classification and Compensation Division

REVIEWED BY: Belinda Collins, Chief
Classification and Compensation Division

SUBJECT: Proposed revision to the entry level classification of Tax Counsel in the Tax Counsel Series specification to revise language under minimum qualifications allowing students who are eligible to take the California State Bar exam or are in their final year of law school to be admitted to the examination.

SUMMARY OF ISSUES:

The Franchise Tax Board and Board of Equalization propose a revision to the Tax Counsel Series specification to allow students who are eligible to take the California State Bar examination or are in their final year of law school to participate in the examination process.

CONSULTED WITH:

Geoff Way, Chief Counsel, Franchise Tax Board
Lisa Fein, Personnel Officer, Board of Equalization
Marianne Meek, Employee Relations Officer, Franchise Tax Board
Daphne Baldwin, State Personnel Board
Dave Lopez, State Personnel Board

In accordance with the terms of the DPA/CASE, DPA has notified the union in writing of this proposal.

CLASSIFICATION CONSIDERATIONS:

Refer to the attached Part B.

RECOMMENDATION:

1. That the proposed revised specification for the class of Tax Counsel as shown in this calendar be adopted.

CLASSIFICATION CONSIDERATIONS

Instructions: Complete after if Concept (Part A) is approved by DPA. Answer all applicable questions, providing enough information to support your proposal. Return this with a signed transmittal form to your DPA and SPB Analysts.

Background

1. Provide some historical perspective about the organizational setting of the subject class(es) and the needs that this request addresses.

Franchise Tax Board

The primary function of the Franchise Tax Board (FTB) is to collect the correct amount of tax due in the most cost effective and appropriate manner. In addition, FTB administers other programs entrusted to it and continuously monitors the quality of its products and services. FTB performs in a manner warranting the highest degree of confidence in its integrity, efficiency, fairness, and service.

FTB is responsible for administering two of California's major tax programs, Personal Income tax (PIT) and Bank and Corporation (B&C), as well as the Homeowners and Renters' Assistance program. In addition, FTB administers several non-tax programs to collect delinquencies owed to state and local government. These programs include Interagency Intercept Collections (Controller's Offset program), Vehicle Registration Collections for the Department of Motor Vehicles and Child Support Collections for local county child support agencies, Court-Ordered Debt Collections for municipal and superior courts, and Industrial Health and Safety Collections for the Department of Industrial Relations. FTB also performs audits, as specified, under a provision of the Political Reform act.

Headquartered in Sacramento County, FTB employs more than 5,300 people and has 14 district offices throughout California, as well as in Chicago, Houston, and Manhattan. FTB is responsible for processing over 16 million PIT and B&C returns annually. In addition, the department annually takes collection actions on over three million past-due tax and non-tax accounts and over \$4 billion in receivables. Moreover, FTB assembles and analyzes approximately 200 million income records and processes thousands of payment documents each year.

The Legal Division performs a wide variety of legal functions and services for the Franchise Tax Board. The legal staff represents the department in tax matters in protests, appeals, out of state bankruptcy and settlement cases. They assist the Attorney General in court with respect to refund litigation cases and, in conjunction with the Accounts Receivable Management Division, with in-state bankruptcy matters. Legal staff also: 1) represents the department in personnel matters before the State Personnel Board, Board of Control cases and other administrative proceedings; 2) provides advice and counsel to the department with respect to the department's legislative program, forms review, contract and general counsel matters, as well as the department's non-tax programs; and 3) issues legal rulings and public notices, and is responsible for the department's regulation program.

Board of Equalization

The Board of Equalization (BOE) was constitutionally created in 1879 and its members are the nation's only elected tax commission. It is a medium to large agency with 3,965 employees and 17 offices throughout California, inclusive of Board Member offices, with out-of-state offices in New York, Chicago, and Houston. The BOE administers over 26 tax and fee programs in the areas of sales and use taxes, property taxes, and special taxes. In 2004-05, taxes and fees administered by BOE yielded \$49.95 billion for education, public safety, health care, transportation, social services, housing and natural resource management for the people of California. Board-administered programs provided more than 37% of the State's tax revenue.

BOE's primary responsibilities include acting as an appellate body for final actions appealed from the Franchise Tax Board (including matters under the Bank and Corporation Franchise Tax, the Personal Income Tax, and the Homeowner and Renter Property Tax Assistance Laws), as the appellate body for sales and use tax determinations, as the appellate body for other business tax determinations (such as appellate body for timber tax, private railroad car, and welfare exemption denial appeals, and as the appellate body for local government appeals of assessments of properties located outside of the agency's boundaries. In addition, BOE is constitutionally mandated to annually assess railroads and privately held public utilities, including gas, electric, and telephone companies, and to oversee the property tax assessment practices. Finally, BOE oversees revenue collection and program operations for alcohol, tobacco, fuel, excise, and environmental tax and fee programs administered in cooperation with other state agencies.

The Legal Department performs a wide variety of legal functions and services for the BOE through its Tax and Fee Programs Division, Legal Affairs Division, Settlement Division, and Appeals Division in furtherance of the agency's mission to serve the public through fair, effective, and efficient tax and fee administration.

The duties performed by the attorneys in the series include participation as a hearing officer on taxpayer protest cases and administrative appeal cases, which includes applying and interpreting relevant legal authorities to the cases; preparing and arguing income and franchise tax cases in administrative appeal hearings before the State Board of Equalization; reviewing, negotiating and settling administrative tax disputes involving various tax issues and/or millions of dollars in potential revenue; providing advice and counsel to departmental staff regarding bankruptcy and collection issues, and employee discipline and other personnel matters; and analyzing proposed legislation and reviewing departmental bill analyses. The assignment of specific duties depends upon the level of difficulty, complexity and sensitivity of the particular assignment. For example, preparing arguments and responsive pleadings involving very technical and difficult tax issues at the judicial and administrative levels are assigned to Tax Counsels III.

FTB and BOE, along with many other state agencies, are faced with the retirement of their senior attorneys. This has created a strong need to recruit and hire the brightest talent into their legal departments. Currently, FTB and BOE are unable to compete and seriously discuss state career possibilities with top law students because the minimum qualification for Tax Counsel require that applicants be eligible to take the California State Bar exam before they can compete in the Tax Counsel exam. Thus, they do not meet the minimum qualifications until they have graduated from law school.

The departments propose that the minimum qualifications be revised to allow law students who are in their last year of law school to qualify and test for Tax Counsel.

There would be no change in the appointment process which would still require that applicants have passed the California State Bar exam before they could be appointed to Tax Counsel.

Recognizing the pressures of significant student loans and prospects of early employment opportunities from law firms and private industry, many top students cannot afford to delay their hiring decisions in favor of a State testing process that begins between late May and August and is only the first of two steps in the hiring process (the second step being the interview process). In the fall and spring months, potential employers interview students who are in their last year of law school for upcoming attorney positions. Due to the current Tax Counsel minimum qualifications, law students interested in state civil service positions cannot compete in the exam until at least May after they have graduated. Furthermore, they cannot be appointed until they have passed the State Bar, which occurs in late July.

Law firms and corporations not only interview, but also hire the most qualified last-year law students during the fall and spring semesters. Without the proposed changes to the minimum qualifications, the departments are effectively foreclosed from creating an early eligible list and recruiting the most qualified students during their last year of law school.

The proposed revision would remove this barrier to recruiting top law students that does not exist with some of the civil service medical professional classifications, e.g., dentists and pharmacists. For example, the minimum qualifications for the Dentist classification states, in part, "Possession of the legal requirements for the practice of dentistry in California as determined by the California Board of Dental Examiners. (Applicants may be admitted to the examination prior to meeting these requirements)."

Revising the Tax Counsel minimum qualifications would have a positive effect on the departments' recruitment of attorneys as it would expand the pool of qualified candidates eligible to take the exam and establish eligible lists sooner than allowed by the current minimum qualifications.

Classification Considerations

2. What classification(s) does the subject class(es) report to?

Tax Counsels typically report to a Tax Counsel III (Supervisor) or an Assistant Chief Counsel.

3. Will the subject class(es) supervise? If so, what class(es)?

No.

4. What are the specific duties of the subject class(es)?

The duties performed by the attorneys in the series include participation as a hearing officer on taxpayer protest cases and administrative appeal cases, which includes applying and interpreting relevant legal authorities to the cases; preparing and arguing income and franchise tax cases in administrative appeal hearings before the State Board of Equalization; reviewing, negotiating and settling administrative tax disputes involving various tax issues and/or millions of dollars in potential revenue; providing advice and counsel to departmental staff regarding bankruptcy and collection issues, and employee discipline and other personnel matters; and analyzing proposed legislation and reviewing departmental bill analyses. The assignment of specific duties depends upon the level of

difficulty, complexity and sensitivity of the particular assignment. For example, preparing arguments and responsive pleadings involving very technical and difficult tax issues at the judicial and administrative levels are assigned to Tax Counsels III.

5. What is the decision-making responsibility of the subject class(es)?

As described above, incumbents generally perform similar duties with assignments based on the level of difficulty, complexity, and sensitivity of the particular assignment. The decision-making responsibility will also vary based on the level of the incumbents performing the particular assignment.

6. What would be the consequence of error if incumbents in the subject class(es) did not perform their jobs? (Program problems, lost funding, public safety compromised, etc.)

Successful administration of tax laws impacts the revenues collected through the tax system and taxpayer burden. If the attorneys lost administrative tax cases, some of which can individually involve over \$100 million, not only would there be a loss in revenue, but also serious impairment of the ability to implement major portions of existing tax laws. Further, major concessions in settlement of tax law issues would undermine the departments' litigating posture and impair enforcement of the State's position against other taxpayers who would demand comparable concessions.

7. What are the analytical requirements expected of incumbents in the subject class(es)?

Attorneys appointed to the Tax Counsel series are educated in California law and its application. As they move through the series, they learn the specifics of application of laws that are the responsibility of FTB and/or BOE. The ability to analyze a particular situation and apply the appropriate law is critical at all levels of the series.

8. What are the purpose, type, and level of contacts incumbents in the subject class(es) make?

Incumbents have contact with high level State and national public officials, high level private industry representatives, top tax attorneys, the country's top tax litigators, the FTB and BOE board members and executive staff, State legislators and staff, California Constitutional Revision Commission, elected local officials, Governor's staff, Legislative advocates, Multistate Tax Commission, and Federal Tax Administrators.

Need for New Class (if necessary)

9. For new classes only: what existing classes were considered and why were they not appropriate?

No applicable.

Minimum Qualifications

10. What are the proposed or current minimum qualifications of the subject class(es), and why are they appropriate? (Include inside and outside experience patterns.)

The current minimum qualifications state that applicants who are not members of the State Bar of California are eligible to take the Tax Counsel examination but cannot be considered eligible for appointment until they are admitted to the California State Bar.

The departments propose that the minimum qualifications be revised to allow applicants who are not members of The California State Bar but who are eligible to take the California State Bar examination or are in their final year of law school will be admitted to the examination but will not be considered eligible for appointment until they are admitted to The State Bar of California. There would be no change in the appointment process which would still require that applicants have passed the California State Bar exam before they could be appointed to Tax Counsel.

Probationary Period

☐ The probationary period is six months

11. If a probationary period other than six months is proposed, what is the rationale?
No change.

Status Considerations

12. What is the impact on current incumbents?
None.
13. Will current employees move by examination, transfer, reallocation, split-off, etc.? Explain rationale.
No applicable.

Consulted With

14. In addition to the departmental contacts listed on the cover sheet, list the names and affiliations of persons who were consulted during the development of this proposal.
- Geoff Way, Chief Counsel, Franchise Tax Board
Lisa Fein, Personnel Officer, Board of Equalization
Lisa York, Department of Personnel Administration
Marianne Meek, Employee Relations Officer, Franchise Tax Board

CALIFORNIA STATE PERSONNEL BOARD

SPECIFICATION

TAX COUNSEL
Series Specification
(Established January 22, 1991)

SCOPE

This series specification describes four classifications used by the Franchise Tax Board (FTB) and the Board of Equalization (BOE) to provide specialized legal services concerned with the administration of California tax law.

This series is available for use only by the FTB and the BOE.

| <u>Schem</u> <u>Code</u> | <u>Class</u> <u>Code</u> | <u>Class</u> |
|-----------------------------|-----------------------------|------------------------------|
| OA75 | 6728 | Tax Counsel |
| OA76 | 6733 | Tax Counsel III (Specialist) |
| OA77 | 6734 | Tax Counsel III (Supervisor) |
| OA78 | 6722 | Tax Counsel IV |

DEFINITION OF SERIES

Incumbents in these classes study, interpret, and apply laws, regulations, court decisions, and other legal authorities as required.

Typical tasks performed by Tax Counsels engaged in administering those provisions of the Revenue and Taxation Code for which the FTB and BOE have responsibility include, but are not limited to: applying and interpreting complex law involving individuals or sophisticated and unique business organizations and other governmental entities; conducting research and drafting legal opinions, position papers, rulings, briefs, orders, and pleadings; participating as departmental attorney or as hearing officer in connection with administrative proceedings involving proposed tax assessments or claims for refund; advising the FTB, BOE, departmental staff, local government entities, and the public with respect to the application of complex tax laws; appearing before the BOE in support of departmental positions, acting as departmental counsel with respect to personnel matters, and appearing in that capacity before both administrative law judges, boards, commissions, and the judiciary; assisting in court proceedings and pretrial discovery matters; supporting the attorney general in litigation against the Department and coordinating departmental efforts in that regard; drafting of legislation, regulations, and interpretive opinions; assisting in bankruptcy proceedings; advising departmental personnel with respect to the legal ramifications of proposed actions; working with advisory committees, citizens' groups, legislative, and professional associations on studies of ways to

improve the laws administered by the FTB and BOE; speaking before tax forums, conferences, professional groups, and negotiating with outside counsel on the legal aspects of major tax disputes; and advising the respective Boards, departmental staff, and the public with respect to confidentiality of tax return information.

ENTRY LEVEL

Entry into this series requires membership in The California State Bar. The class of Graduate Legal Assistant, which requires eligibility to take the California State Bar examination, may also be used to recruit those interested in entry into this series.

DEFINITION OF LEVELS

ALL LEVELS:

Classes in this series generally perform similar duties. Differences between classes are determined primarily by (1) the level of difficulty, complexity, and sensitivity of the assignments given to the incumbent, (2) the degree of independence with which the incumbent performs an assignment, (3) the experience and expertise which the incumbent brings to those assignments, and (4) the value of the services rendered by the incumbent to the Department and to State service.

TAX COUNSEL

This is a recruitment and developmental class for persons qualified to practice law in the State of California. Incumbents assigned to Range A perform the least difficult professional legal work in the FTB or BOE. Based upon the appropriate alternate range criteria, incumbents advance to Range B, C, and D, and are assigned progressively more difficult professional legal work as their competency increases. Incumbents assigned to Range D are assigned the more complex and sensitive legal work in this class.

TAX COUNSEL III (SPECIALIST)

Incumbents in this class are well-experienced advanced or full journey level attorneys who have the experience and have developed the expertise necessary to capably perform the most complex and sensitive legal work of the FTB or BOE on an independent basis. A Tax Counsel III (Specialist) is usually assigned only the most important legal work such as (1) analyzing and advising on very complex tax questions

arising under the laws administered by the FTB or BOE; (2) preparing arguments and responsive pleadings involving the most difficult tax issues at the judicial and administrative levels; and (3) drafting and analyzing complex legislation, opinions, rules, and regulations.

A Tax Counsel III (Specialist) may act in a lead capacity over the work of other attorneys.

TAX COUNSEL III (SUPERVISOR)

This is the first supervisory level. Incumbents plan, organize, and direct the work of a small staff of FTB or BOE attorneys and, in addition, develop strategy in complex State tax disputes or litigation. They may also personally participate in the most difficult and complex litigation matters, negotiation, hearings, legal research, and opinion drafting.

TAX COUNSEL IV

Incumbents in this class are the most experienced attorneys who are experts in a broad or specialized area of law. They have demonstrated their ability to independently perform assignments consisting of the most complex and sensitive legal work of the department and consistently produce favorable results on these matters. Incumbents in this class are typically assigned the most complex legal matters and/or litigation of the greatest difficulty which include, but are not limited to, handling cases that are very likely to be appealed to the highest courts.

A Tax Counsel IV may act in a lead capacity over the work of other attorneys.

MINIMUM QUALIFICATIONS

ALL LEVELS:

All classes require active membership in The State Bar of California. (Applicants who are not members of The California State Bar but who are eligible to take The California State Bar examination or are in their final year of law school will be admitted to the examination but will not be considered eligible for appointment until they are admitted to The State Bar of California.)

TAX COUNSEL III (SPECIALIST)

TAX COUNSEL III (SUPERVISOR)

Six years of legal experience in the practice of law* in a governmental jurisdiction or in private practice, including three years of legal experience in the practice of tax law or directly related legal experience, including administrative and/or civil litigation. (Applicants who have completed five years and six months of legal experience and two years and six months of tax law or directly related legal experience, including administrative and/or civil litigation, will be admitted into the examination, but must complete the required six years of legal experience including the three years of tax law or directly related legal experience, including administrative and/or civil litigation, before they will be eligible for appointment.)

TAX COUNSEL IV

Ten years of legal experience in the practice of law* in a governmental jurisdiction or in private practice, including four years of legal experience in the practice of tax law or directly related legal experience, including administrative and/or civil litigation, at a level of responsibility equivalent to a Tax Counsel III. (Applicants who have completed nine years and six months of legal experience, including three years and six months of tax law or directly related legal experience, including administrative and/or civil litigation, at a level of responsibility equivalent to a Tax Counsel III, will be admitted into the examination, but must complete the required ten years of legal experience, including the four years of tax law or directly related legal experience administrative and/or civil litigation, at a level of responsibility equivalent to a Tax Counsel III, before they will be eligible for appointment.)

KNOWLEDGE, SKILLS, AND ABILITIES

ALL LEVELS:

Knowledge of: How to conduct legal analysis (e.g., issue-spotting, rule analysis, applying law to facts) to ensure relevant issues and information are identified; principles and practices for properly conducting legal research, such as ensuring law is current (i.e., "Shepardizing") and checking for recent amendments to statutes; general principles of jurisprudence including statutory construction and stare decisis; English language including: grammar, spelling, punctuation, sentence and paragraph structure, organization, and appropriate vocabulary; how to prepare the most common types of legal documents in an effective, clear, and persuasive manner (e.g., briefs, motions, pleadings, contracts, stipulations, declarations, determination letters, etc.); how to communicate in a persuasive fashion to influence the listener(s); available research sources, both printed

and electronic, to complete legal research, including what types of material they contain, where they are located, and their breadth, depth, and relative strengths and weaknesses. Examples include primary legal texts, secondary legal texts, and electronic databases; how to prepare clear and effective formal correspondence to a variety of recipients; and how to use computers to create documents, conduct research, and communicate; and how to use a variety of software applications.

Skill in: Reading and comprehending written documents such as contracts, statutes, regulations, legal rulings, case law, etc; analyzing arguments in order to effectively address them; summarizing relevant facts in order to capture the key points and implications; determining relevant legal issues to be addressed; editing written documents for accuracy and effectiveness; identifying issues relevant to a question/matter given the available information and applicable law, in order to prioritize the critical elements to be addressed; ranking pending matters in order of importance to work effectively and meet deadlines without sacrificing the quality of work products; planning work within given time constraints, continually monitoring progress, and adjusting current work focus to meet deadlines; properly identifying the nature of problems, generating alternatives, and implementing solutions and approaches that successfully address the problems; efficiently locating relevant or useful information from a large volume of documents; behaving towards others with respect, courtesy, and tact to enhance communication and helping ensure a positive reputation for the department; communicating legal principles, facts, and position(s) in a logical, respectful, and articulate manner to various audiences and forums using tone, vocabulary, format, and grammar appropriate to the circumstances; using computer hardware and software to effectively communicate with others, access files, and produce written job-related documents; working cooperatively and productively as a member of a team to achieve a common goal; and presenting oneself in an appropriately professional manner in all circumstances.

Ability to: Analyze information and detect potential logical, legal, and/or factual flaws in arguments or assumptions; reason logically in order to research, investigate, and plan the development of a project or case; attend to details in order to perform work in an accurate and thorough manner; conceptualize large, long-term projects as a series of distinct tasks to prioritize them; recognize the merits in the opinions of internal and external stakeholders to reach a compromise; organize thoughts before communicating to ensure concise and logical expression; identify situations in which available information, resources, or capabilities are insufficient to complete work tasks in order to seek assistance when needed; work quickly in order to complete urgent projects assigned without prior notice; successfully complete multiple projects simultaneously (i.e., multi-task) within appropriate timeframes while maintaining a high level of work performance; and accept constructive criticism regarding work products and practices to continually improve work performance.

A greater degree of knowledge, skill, and abilities is required at each higher level.

TAX COUNSEL III (SPECIALIST)

Knowledge of: In addition to the above, Department's policies regarding confidential taxpayer information; general principles of jurisprudence including statutory construction and stare decisis; legal principles and interpretive case law underlying the Internal Revenue Code, the California Revenue and Taxation Code, other applicable codes, and their supporting regulations; Federal and State Constitutions, Internal Revenue Code, the California Revenue and Taxation Code, other applicable codes, case law and their supporting regulations as they relate to the specific job assignment; and Department's sexual harassment policy.

Skill in: In addition to the above, organizing and making effective formal and informal presentations for various purposes and audiences (e.g., administrative hearings, Board Meetings, internal briefings, meetings, settlement negotiations, etc.); weighing the relative advantages and disadvantages of potential actions and determining the appropriate steps to take; understanding and explaining computations and schedules (e.g., penalty, interest, tax, etc.); and providing guidance, direction, and training to colleagues to ensure quality work products.

TAX COUNSEL III (SUPERVISOR)

Knowledge of: In addition to the above, knowledge of a manager's/supervisor's role in promoting Equal Employment Opportunity in hiring, employee development, and promotion; and the principles and techniques of personnel management and supervision.

Ability to: In addition to the above, effectively supervise the work of subordinate personnel; and effectively contribute to the Department's equal employment goals; and planning, organizing, and directing the work of others.

TAX COUNSEL IV

Knowledge of: In addition to the above, the Board's organization and procedures to effectively complete assignments.

Ability to: In addition of the above, apply legal principles and statutes across program areas and provide constructive criticism to improve work performance.

CLASS HISTORY

| <u>Class</u> | <u>Date Established</u> | <u>Date Revised</u> | <u>Title Changed</u> |
|------------------------------|-----------------------------|-------------------------|--------------------------|
| Tax Counsel | 1/22/91 | 5/18/07 | 5/21/96 |
| Tax Counsel III (Specialist) | 1/22/91 | 5/18/07 | 5/21/96 |
| Tax Counsel III (Supervisor) | 1/22/91 | 5/18/07 | 5/21/96 |
| Tax Counsel IV | 2/1/94 | 5/18/07 | 5/21/96 |

-
- Experience in the "practice of law" or "performing legal duties" is defined as (1) only that legal experience acquired after admission to any State Bar, or (2) experience as a judicial clerk for a Federal Court, California State Court, or another state's appellate court of last resort. For an individual's judicial clerkship to qualify as experience in the "practice of law" or "performing legal duties", the experience must have been gained after receipt of a Juris Doctor or equivalent degree.

TO: STATE PERSONNEL BOARD

FROM: Dave Rechs, Staff Personnel Program Analyst
Classification and Compensation Division

REVIEWED BY: Belinda Collins, Chief
Classification and Compensation Division

SUBJECT: Abolishment of Vacant Civil Service Classes

SUMMARY OF ISSUES:

In the interest of maintaining the State's overall classification plan, the Department of Personnel Administration and State Personnel Board propose to abolish the following fifteen vacant classifications. These classes have gone unused for more than twenty-four months, and their future use is not anticipated. Since some of these classifications are part of a series, we have included the class specification in the board item.

CONSULTED WITH:

Daphne Baldwin, State Personnel Board
Dave Lopez, State Personnel Board
Frank Marr, Department of Personnel Administration

All pertinent exclusive representatives have been noticed regarding this proposed class abolishment and there have been no objections.

RECOMMENDATIONS:

That effective April 22, 2008, the below civil service classes listed in this calendar be abolished.

| Title | Class Code |
|---|-------------------|
| Publications Supervisor Division of | |
| Mines and Geology | 5607 |
| Senior Mining Engineer | 3774 |
| State Geologist C.E.A. | 3690 |
| Assistant Chief Division of Industrial | |
| Accidents C.E.A. | 5842 |
| State Intergroup Relations Coordinator | 9490 |
| Senior Boating Administrator | 1104 |
| Public Employment Relations Representative | 9526 |
| Assistant Chief, Conservation and Liquidation | |

| | |
|---|------|
| Division, Department of Insurance | 4428 |
| Chief, Technical Assistance and Analysis | |
| Division, Fair Political Practices Commission | 5707 |
| Maritime Vocational Instructor I | 6976 |
| Maritime Vocational Instructor II | 6978 |
| Maritime Vocational Instructor III | 6979 |
| Printing Trades Specialist I (Finishing) | 1489 |
| Printing Trades Specialist II (General) | 1499 |
| Printing Trades Specialist IV | 1522 |



MEMORANDUM

DATE: April 22, 2008
TO: STATE PERSONNEL BOARD
FROM: MIKE STRAZZO, Merit Operations Division
SUBJECT: STAFF AGENDA ITEMS FOR BOARD INFORMATION

NONE PRESENTED